

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BROOKS L. MAULDIN,

Plaintiff,

v.

JANET NAPOLITANO,

Defendant.

Case Number 09-10245

Honorable David M. Lawson

Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND RECOMMENDATION,**  
**DISMISSING CASE WITHOUT PREJUDICE**

Presently before the Court is the report issued on April 23, 2009 by Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636(b) recommending that this Court dismiss without prejudice the plaintiff's complaint for failing to pay the filing fee. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 5] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: May 13, 2009

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 13, 2009.

s/Susan K. Pinkowski  
SUSAN K. PINKOWSKI